

***STOW PLANNING BOARD***

***RULES AND REGULATIONS***

***for***

***PLANNED CONSERVATION DEVELOPMENT SPECIAL PERMITS***



***ADOPTED: November 29, 1995***

***EFFECTIVE DATE: December 27, 1995***

***Amended: December 14, 1998***

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## **SECTION 1**

### **GENERAL PROVISIONS**

#### **1.1 Authority**

These Rules and Regulations are adopted by the Stow Planning Board as authorized by MGL Chapter 40A and the Stow Zoning Bylaw.

#### **1.2 Purpose**

The purpose of these Rules and Regulations is to establish uniform procedures for conducting the business of the Planning Board under its jurisdiction as a Special Permit Granting Authority for Planned Conservation Developments (PCD).

#### **1.3 Applicability**

Any person applying for a Special Permit for a Planned Conservation Development (PCD), whether or not governed by any other federal, state, or local regulations, laws, permits, variances, approvals, or programs, shall comply with the provisions of these Rules.

#### **1.4 Definitions** - Defined terms are capitalized in these Rules.

APPLICANT	Any person or such person's authorized representative who files an application for a special permit under the Stow Zoning Bylaw.
APPLICATION	All plans, forms, reports, studies or other documents which are submitted to the Planning Board under these Rules by an APPLICANT.
BOARD	The Planning Board of the Town of Stow.
BYLAW	The Zoning BYLAW of the TOWN of Stow, as amended
DECISION	Action by the BOARD on an APPLICATION
PARTIES IN INTEREST	The APPLICANT; abutters; owners of land directly opposite on any private or public STREET or way; and abutters to the abutters within three hundred feet of the property line of the APPLICANT as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the BOARD; and the Planning Board of every abutting city or town.
PERMIT	A Special PERMIT for Open Space Development (PCD) under the BY-LAW.
RULES	The RULES and Regulations for a Special Permit for Planned Conservation Developments (PCD) as presented herein
TOWN	The TOWN of Stow.

Other Definitions - Refer to the "Definitions" section of the SUBDIVISION Rules and Regulations and the BYLAW for additional defined terms.

#### **1.5 Coordination with SUBDIVISION Review**

In the case where the PCD requires approval under the "Subdivision Control Law", the APPLICANT shall submit an Application for Approval of a Definitive Subdivision Plan concurrently with its APPLICATION for a PERMIT hereunder. To the extent permitted by law, the BOARD shall consider the Definitive Subdivision Plan and the APPLICATION for a PERMIT at the same time.

### **1.6 Waiver of RULES**

Strict compliance with these RULES may be waived if the BOARD finds that the waiver is in the public interest or is irrelevant to the project, and is consistent with the intent and purpose of the BYLAW and these RULES.

Any request from an APPLICANT for a waiver of these RULES must be submitted, in writing, to the BOARD at the time of submission of the APPLICATION. Such requests must clearly identify the provision/s of the RULES from which relief is sought and be accompanied by a statement setting forth the reasons why, in the APPLICANT's opinion, the granting of such a waiver would be in the public interest or the specific information required is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of the BYLAW and these RULES.

### **1.7 Provision of Security**

The BOARD may require in its DECISION that security be posted with the TOWN in such form and amount as is required by the BOARD to secure the satisfactory completion of all or any part of the work authorized under a PERMIT. The form of security shall be generally as required in the Town of Stow Subdivision Rules and Regulations.

### **1.8 Advice from TOWN Staff**

Any advice, opinion, or information given to the APPLICANT by a BOARD member, or by any agency, official, or employee of the TOWN shall be considered advisory only and not binding on the BOARD.

### **1.9 Amendments to the RULES**

The RULES may be amended by a majority vote of the BOARD in a public meeting.

## **SECTION 2**

### **PRELIMINARY REVIEW**

#### **2.1 Preliminary Consultations**

Consultations between a prospective APPLICANT and the BOARD's Administrative Assistant and a representative of the BOARD prior to the filing of an APPLICATION with the BOARD are strongly recommended and can prevent serious delays in the processing of the final APPLICATION.

Any action or communication initiated by the APPLICANT prior to the filing of an APPLICATION with the Town Clerk and the BOARD shall not constitute a PERMIT APPLICATION. The following RULES shall apply to such preliminary consultations.

#### **2.2 Form of Request**

At least 9 copies of all materials to be reviewed shall be provided to the BOARD along with a letter requesting a review and including the name, address, and phone number of a person who may be contacted concerning the review. All correspondence and communication must be sent through the Planning Board Office or a copy of said communication must be provided to the BOARD.

#### **2.3 Scope of TOWN Staff Reviews**

TOWN staff and a BOARD member representing the BOARD will review preliminary materials in an attempt to avoid unnecessary technical deficiencies in the final APPLICATION and to promote efficiency in the formal review process. Review will be limited to technical issues and to assessments of whether the project in question adequately addresses major issues of concern to the TOWN and the neighborhood. The preliminary review will be completed within 30 days. TOWN staff and the member of the BOARD assigned to the review will not be responsible for assuring the thoroughness, completeness, or correctness of any final APPLICATION. It is the responsibility of the APPLICANT to assure that any APPLICATION to the BOARD is complete and accurate.

Through the preliminary review process, the BOARD and its Administrative Assistant will make recommendations for any additional deposits that may be appropriate for outside technical consultants. Note that substantial changes in the project may require the alteration of these recommendations at the time of final submission. In all cases APPLICANTS shall contact the Planning Board Office prior to the final submission to discuss these fees.

If any other special permits are required from the BOARD for the project, then these should be discussed at this time.

#### **2.4 Fees**

The first such preliminary review shall be free of charge. Each subsequent preliminary reviews shall require payment of a fee by the prospective APPLICANT of \$500 at the time of submission. The fee shall be submitted in check form and made payable to "Town of Stow".

## **SECTION 3**

### **CONTENTS OF APPLICATION**

#### **3.0 APPLICATION**

An APPLICATION for a PERMIT which lacks information or is incomplete in any manner may be denied or seriously delayed. It is the responsibility of the APPLICANT to assure the accuracy and completeness of all information submitted to the BOARD as part of an APPLICATION. The APPLICANT shall be responsible for factually supporting all points relied upon in the APPLICATION including references for methodologies used in design calculations.

Twelve (12) copies of the APPLICATION including full size plan sheets and six (6) reduced size (11" x 17") copies of the plan sheets shall be required at the time of submission of an APPLICATION. Each copy of the APPLICATION shall be folded so that it will fit neatly into a letter sized file folder.

If the PCD requires the filing of a subdivision plan under the Subdivision Control Law, certain requirements of this section may be waived in view of equivalent information submitted with the subdivision plan. Consult with the BOARD's Administrative Assistant during the preliminary review regarding appropriate filing arrangements.

A complete APPLICATION for a PERMIT shall include at a minimum the following items.

#### **3.1 APPLICATION Form**

Any APPLICATION for a PERMIT shall be made in writing and include the completed application form entitled "Application for an Planned Conservation Development Special Permit" (form PCD) attached to these RULES and also available from the Office of the BOARD at the Stow Town Building. In the case where the APPLICANT is a person other than the record owner of the property, the APPLICANT must obtain the owner's signature on this form indicating that the owner has knowledge of and consents to the APPLICATION. If the APPLICANT is acting in the name of a trust, corporation or company, a letter documenting the authorizing vote shall be attached.

#### **3.2 Development Impact Statement**

A completed Development Impact Statement (see Appendix - Form DIS.).

#### **3.3 Certified Abutters List**

List of abutters and abutters to abutters that are PARTIES IN INTEREST as defined in these RULES, taken from the most recent tax list of the TOWN and certified by the Town Assessors. The APPLICANT shall pay any charges required by the Town Assessors for the list.

#### **3.4 Other Permits, Approvals and Variances**

List and copies of variances, permits, and other special permits previously issued by other TOWN boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Conservation Commission, the Board of Appeals, the Planning Board, the

State Dept. of Public Works, the Army Corp. of Engineers, and the State Dept. of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

NOTE: If any other special permits are required from the BOARD, the APPLICANT is hereby strongly advised to make the applications for such additional permits concurrently with this PERMIT APPLICATION.

### **3.5 Recorded Plans and Deeds**

A copy of the most recently recorded plan(s) and deed(s) for the LOT(s) on which the work will take place bearing the book number(s), page number(s), and date(s) of recording(s) or registration(s).

### **3.6 Letter Authorizing Completion of Improvements**

A letter authorizing Town representatives to enter on the PCD to complete the STREETS and ways, services, and other aspects of the plan or plans for which the APPLICANT seeks a PERMIT, if the developer does not complete them according to his obligations.

### **3.7 Mortgage Holders**

A list of mortgage holders which shall be kept current during the period of development.

### **3.8 Ownership & Maintenance of Open Land**

A draft copy of the proposed deed(s) and other instruments which shall be suitable for recording at the Middlesex South Registry of Deeds or the Land Court which shall include the following:

- 3.8.1 Legal description of the Open Land which is to be conveyed to a corporation, trust, or non-profit organization;
- 3.8.2 Statement of the purpose for which the Open Land is intended to be used and the restrictions on its USE and future transfer of title or alienation in accordance with the requirements of the BYLAW.
- 3.8.3 The type and name of the corporation, trust or non-profit organization which will own, manage and maintain the Open Land and any improvements thereon;
- 3.8.4 If the Open Land is to be conveyed to a corporation or trust consisting of property owners within the PCD, include a description of the ownership or beneficial interest in the corporation or trust of each owner of a property in the PCD and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately therefrom;
- 3.8.5 Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and officers of the corporation or non-profit organization or trustees of the trust;
- 3.8.6 Procedures for the conduct of the affairs and business of the corporation, non-profit organization or trust including provision for the calling and holding of meetings of members and directors and officers of the corporation or non-profit organization or beneficiaries and trustees of the trust and provision for quorum and voting requirements for action to be taken;
- 3.8.7 Provision for the management, maintenance, operation, improvement and repair of the Open Land and any improvements thereon, including provisions for obtaining and maintaining adequate insurance and levying and collecting from the property owners common charges to pay for expenses associated with the Open Land, including real estate taxes.



It shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation, non-profit organization or trust, and that each dwelling owner's share of the common charge shall be a lien against his real estate in the PCD which shall have priority over all other liens with the exception of municipal liens and first mortgages of record; and

3.8.8 The method by which such instrument or instruments may be amended.

### **3.9 PCD Site Plan**

An PCD site plan shall be legibly drawn to fully detail and explain the intentions of the APPLICANT. PCD site plans shall be drawn at a standard scale (1 inch = 20, 40, or 50 feet) except when noted otherwise. All plans shall include a reasonable numbering system for LOTS, BUILDINGS and DWELLING UNITS. Each plan sheet shall feature a north arrow, a legend identifying any representative symbols used on the sheet in question, an appropriate title block in the lower right hand corner, and the seal of a Registered Professional Engineer, Registered Land Surveyor, Registered Landscape Architect, Registered Professional Architect, or some combination of these as appropriate to the data on the sheet. Topography and all elevations shall be referenced to the National Geodetic Vertical Datum of 1929 with the location and elevation of the starting bench mark plus at least two additional temporary bench marks on the site.

The individual components of the PCD site plan (i.e. Record Plan, Natural Features and Existing Conditions Plan, Site Development Plan, etc.) may be presented on one or more plan sheets as necessary to present clear and legible plans. Match lines shall be placed in plan locations that feature a minimum of information. Sufficient overlap between plan sheets shall be provided to permit easy reading of plans across match lines. Unless other arrangements are made with staff during the preliminary review process, the PCD site plan shall consist of the following:

#### **3.9.1 A Title Sheet showing:**

- a) A locus map showing an area a minimum of one mile diameter at a scale of 1" = 1200' with major STREETS, BUILDINGS, brooks, streams, rivers and other landmarks shown with sufficient clarity to show the relationship of the PCD to the community, its facilities and major features.
- b) The general layout of the PCD drawn to a scale suitable to fit the entire development onto the title sheet and showing existing and proposed approximate layouts of STREETS and ways, LOT boundary lines, LOT numbers, existing STREET names and identification of proposed STREETS and ways, areas to be developed, Common Land, areas to be left undeveloped within the PCD boundaries, and all zoning district boundaries within or adjacent to the site.
- c) Names and addresses of the owner of record, the subdivider, the engineer and the land surveyor, the book and page number of the recording of the deed or the Land Court certificate.

**3.9.2** A conceptual plan demonstrating the approximate layout of the LOTS, given site limitations without the benefit of PCD standards. The Plan shall also show at least one (1) percolation test per lot witnessed by the BOH, and any such other information as may be necessary to determine the maximum number of permitted BUILDING LOTS as required by the BYLAW.

**3.9.3** A Record Plan suitable for recording at the Middlesex South Registry of Deeds or the Land Court showing:

- a) The name of the PCD, names of STREETS and ways within the PCD and immediately adjacent to the PCD, PCD perimeter and LOT boundaries, Open Land boundaries, north point, date, scale and legend, and the TOWN Atlas Map and Parcel Numbers.
- b) Names and addresses of the owner(s) of record, and the APPLICANT, the engineer and land surveyor, the book and page number(s) of the recording of the deed(s) or the Land Court certificate(s).
- c) Location of abutting property lines with ownership indicated.
- d) All zoning classifications and zoning district boundaries, including the boundaries of the Floodplain/Wetlands District and Water Resource Protection Districts, if applicable, shown in their proper location.
- e) Sufficient data to easily determine the location, direction, width and length of every STREET line, easement, right of way, way or path, LOT line and boundary line, and to reproduce these lines on the ground. All bearings shall be true, magnetic or grid, and the north arrow used on the plan shall clearly indicate this.
- f) House numbers on each LOT, clearly distinguishable from the LOT numbers.
- g) A clear indication, by proper symbols, markings, dates or other notes, after a thorough search has been made, of permanent monuments or boundary markers as were found in the traverses and/or perimeter surveys, and of wetlands, watercourses and other significant features.
- h) Sufficient space for the date and the signatures of the BOARD or its designee, and, if the PCD is not a subdivision under the Subdivision Control Law, the statement "Approval under the Subdivision Control Law not Required".
- i) A statement that the plan is subject to an Planned Conservation Development Special Permit granted by the Stow Planning Board with conditions and limitations, dated \_\_ (date) \_\_, and similar statements with regards to any decisions, appeals, variances, and other permits and special permits governing the land or any BUILDINGS or STRUCTURES thereon.
- j) A reference to all covenants or restrictions applying or relating to the land, and their purpose.

**3.9.4 A Natural Features and Existing Conditions Plan showing:**

- a) Site features such as, but not limited to flood plains, waterways, drainage courses, ponds, ledge outcroppings, soil characteristics, existing vegetation, any species occurring on the site that is listed by the Massachusetts Natural Heritage Program as endangered, threatened and/or of special concern, or as a rare native plants.
- b) All existing monuments and improvements such as, but not limited to BUILDINGS, STRUCTURES, roads and ways, paved areas, stone walls, underground and above ground storage tanks, wastewater disposal systems, historic STRUCTURES, historic BUILDINGS, archeological sites, and scenic vistas; indicate final disposition of any existing BUILDING, STRUCTURE and other improvements, whether they are to remain or to be removed.
- c) Existing contours of the land shown at two (2) foot intervals.
- d) All wetlands and wetland buffer area boundaries defined as those areas subject to the provisions of the Wetlands Protection Act, M.G.L., Chapter 131, Section 40, and the Stow Wetlands Bylaw.

- e) The perimeters of all proposed improvements such as, but not limited to roads and approximate location of BUILDINGS, STRUCTURES, and paved areas, superimposed on the natural features plan in a faded or screened back mode.

**3.9.5** A Site Development Plan showing proposed site conditions for the following characteristics (compliance with applicable standards of the BYLAW and the Subdivision Rules and Regulations shall be demonstrated).

- a) Boundaries and area of the PCD and of LOTS within the PCD with bearings and distances.
- b) All zoning classifications and zoning district boundaries, including the boundaries of the Floodplain/Wetlands District (with elevations), and the Water Resource Protection District, if applicable.
- c) Existing and proposed topography at 2-foot intervals.
- d) A table showing the legal requirements and the actually proposed dimensions or calculations to easily determine compliance of the PCD as a whole with the requirements for TRACT OF LAND size, percent of Open Land, total number of LOTS, and any other information that may be necessary to demonstrate compliance with the BYLAW.
- e) The proposed layout and area of the Open Land with percent of total PCD area.
- f) Location of any special site features including, but not limited to waterways, wetlands, bridges, dams, drainage courses, stone walls, fences, and wells, with indication of any proposed alterations if feature is existing.
- g) The perimeter of any existing wooded areas on the site shall be shown. Existing wooded areas intended for preservation shall be noted. The location, size and proposed fate of any existing trees larger than 12" in diameter shall be shown.
- h) Location and layout of all existing and proposed STREETS and ways, walkways, and sidewalks and other impervious covers with proposed finished grades along the center line or as appropriate, including ACCESS STREETS or ways to the PCD and intersections with existing STREETS or ways and including the proposed sidewalk along the PCD's entire FRONTAGE on existing STREETS, and with all dimensions necessary to determine compliance with the BYLAW and Subdivision Rules and Regulations as applicable.
- i) Indication of required minimum setbacks or yard areas on each LOT and approximate location and outline or footprint of all proposed BUILDINGS, driveways, wells and septic system components.
- j) LOT and house numbers.
- k) All access and utility easements.
- l) Proposed boundaries of each development phase clearly showing the specific limits of construction for each phase and detailing the work to be accomplished in each phase; interim curbing, pavement and landscaping shall be shown as needed between phases.
- m) Location of the water main which will service the PCD and water lines which will service the LOTS.
- n) All fire hydrants on the site or off the site but within 500' of any BUILDING within the PCD. If no fire hydrants are located within such distance, then a note shall appear clearly explaining how the APPLICANT will provide fire protection to the site. The location of any proposed municipal fire alarm boxes or other warning systems and any proposed fire lanes shall be clearly shown and identified. Any underground conduit for municipal fire alarm connections shall be shown.

- o) The location and type of any other underground utilities including but not limited to electric, gas, telephone, or cable television services. Any emergency power facilities should also be shown.
- p) Location and perimeter outline of any on-site or off-site, existing or proposed wastewater treatment and disposal system including any required reserve areas. The type of the wastewater disposal system shall be identified by a simple notation. Actual design and construction specifications for a wastewater disposal system are not required. The proposed location of sewer lines must be shown.
- q) Plan notes that: (1) forbid the use of FILL containing HAZARDOUS MATERIALS OR WASTE in accordance with the BYLAW; (2) require the marking of the limits of work in the field prior to the start of construction or site clearing; (3) require the cleaning of catch-basin sumps and stormwater basins following construction and annually thereafter; (4) restrict the hauling of earth or construction debris to or from the site to the hours between 7 A.M. and 4 P.M. on weekdays if such materials are intended to be removed from or brought to the site; (5) describe the materials to be used in the construction of impermeable surfaces such as sidewalks and driveways (as a minimum, the BOARD requires 12" of gravel and 3" of bituminous concrete paving laid in two courses); and (6) make reference to any other design, operation or construction requirements in compliance with these RULES, the BYLAW, and the Stow Subdivision Rules and Regulations.
- r) Type and location of erosion and sedimentation control measures, if necessary, such as haybales, silt fences, mulch or any other methods to be used during construction to control erosion, sedimentation and salutation.

**3.9.6 A Land USE Plan for Open Land showing:**

- a) Detailed USE description of the Open Land.
- b) The percentage and area of Open Land to be left undeveloped,
- c) All proposed improvements to be located on the Open Land including but not limited to BUILDINGS, STRUCTURES, sidewalks, walkways, trails, swimming pools, tennis courts, playgrounds and other recreational facilities, driveways and parking areas, utilities and drainage structures, showing all dimensions and supporting calculations necessary to determine compliance with the BYLAW and the Subdivision Rules and Regulations as applicable.

**3.9.7 A Construction Details Plan showing:**

- a) Detail of a proposed catch basin, manhole, headwall, retaining wall, walkway, curbs, ramps, subdrain, waterway, leaching basin, stormwater management pond, or other similar improvements.
- b) Typical cross section and construction materials of proposed STREETS and ways, driveways, walkways, parking and loading areas, and fire lanes.

**3.10 Additional Information**

The APPLICATION may contain whatever additional information the APPLICANT feels is necessary to properly inform the BOARD about the development including legal opinions, copies of deeds, historical data, studies, and reports.

The BOARD is empowered by the BYLAW to require information in addition to that specifically required by the BYLAW or by these RULES. The BOARD will require the APPLICANT to supply additional information if it finds that such information is necessary to properly act upon the APPLICATION in question.

## **SECTION 4**

### **FILING PROCEDURES**

#### **4.1 Who may file an APPLICATION?**

Anyone may file an APPLICATION for a PERMIT provided that the property owner of record has signed the APPLICATION form thereby granting his/her consent to the filing of the APPLICATION.

#### **4.2 APPLICATION Fees**

Any APPLICATION shall be accompanied by a fee to cover the expenses incurred by the TOWN in reviewing the APPLICATION. The fee is not refundable. The fee shall be submitted in check form and made payable to the "Town of Stow". If the PCD requires approval under the Subdivision Control Law as set forth in the Town of Stow Subdivision Rules and Regulations, the filing fee for preliminary and definitive plans shall apply. If the PCD does not require approval under the Subdivision Control Law, the fee shall be \$2000.00. If the PCD is also a Definitive Subdivision, a single filing fee of \$2,500.00 is required.

**4.2.1 Additional Review Fee Deposits** - So that the BOARD may make the findings required under the BYLAW and insure that the public safety will be protected, the BOARD may select and hire outside traffic, engineering, legal, or planning consultants to review an APPLICATION. To cover the cost of these reviews a review fee deposit may also be required of an APPLICANT at the time of submission or at any appropriate time in the review process. As the scope of study and review will vary according to the size of a particular project, the APPLICANT is hereby strongly advised to consult the Planning Department concerning the scope and cost of any such studies during the preliminary review. Failure to do so could result in serious delays in the processing of the APPLICATION. The amount of the fee deposit will reflect the anticipated consultant fee/s plus 10%. Note that some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review. Any amount of the deposits remaining after the issuance of building permits for the proposed construction plus any remaining accrued interest will be repaid to the APPLICANT or the APPLICANT's successor in interest.

**4.2.2 Appeal From the Selection of the Consultants** - The APPLICANT may appeal from the selection of an outside review consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The APPLICANT must specify the specific grounds which the APPLICANT claims constitute a conflict of interest or a failure to meet minimum professional requirements.

#### **4.3 Submission to the TOWN Clerk and the BOARD**

Two complete copies of the APPLICATION shall be submitted to the office of the Stow Town Clerk. The Clerk will certify the date and time of filing on both copies, keep one of the copies, and return the other to the APPLICANT. The copy returned by the Clerk and the remaining 10 copies of the APPLICATION, the 6 reduced size plan copies, and the required fees shall then be filed forthwith by the APPLICANT with the office of the BOARD during normal business hours. The APPLICANT may request and shall be entitled to a written receipt for the materials submitted.

Information submitted after the initial filing of the APPLICATION as described above will not be accepted except at the public hearing. If significant information that was not included in the APPLICATION is presented at the public hearing, the hearing may be continued to allow for staff review of the new material. At least 6 copies of any additional materials submitted at the hearing shall be given by the APPLICANT to the Clerk of the BOARD at the hearing.

Questions concerning this process should be directed to the Planning Department.

#### **4.4 Review of APPLICATION**

The BOARD will transmit a copy of an APPLICATION to various other TOWN departments, boards, committees, agencies, or independent consultants in order to ensure full and qualified review of the APPLICATION. Thirty-five (35) days will be provided for such reviews; failure to submit comments on the APPLICATION shall be deemed an approval by the reviewing party. The BOARD will make available to the APPLICANT upon request a copy of any comments or recommendations received.

## **SECTION 5**

### **PUBLIC HEARING & DECISION**

#### **5.1 Public Hearing Notice**

The BOARD shall set the date, time, and place of the public hearing, which shall be held within 65 days of the APPLICATION filing date.

A notice of the hearing indicating the date, time, place, and purpose of the hearing shall be sent certified mail by the APPLICANT to the PARTIES IN INTEREST at least fourteen (14) days prior to the date of the public hearing. Such notice must contain, at a minimum, the information presented in the sample legal notice that is attached to these RULES.

A notice of the hearing shall also be published by the APPLICANT in a newspaper of general circulation, once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing. The contents of this published notice shall be as above for the PARTIES IN INTEREST except that the information in the last 6 paragraphs of the sample legal notice need not be included.

The APPLICANT shall present to the BOARD, the certified mail return receipts as evidence that all PARTIES IN INTEREST have been notified as required by law and copies of the newspaper advertisement of the hearing at or before the public hearing.

Failure to properly notify PARTIES IN INTEREST and to publish a notice of the hearing shall render the public hearing invalid and could cause serious delays in the processing of the APPLICATION.

#### **5.2 Public Hearing Presentation**

An APPLICANT may appear on his/her own behalf or be represented by an agent or attorney. It is the responsibility of the APPLICANT or his/her agent to present the APPLICATION to the BOARD and to the public. In the absence of an appearance, the BOARD may decide the matter using the information it has received. Failure to appear at a public hearing could seriously jeopardize the success of an APPLICATION.

Presentation of the APPLICATION by the APPLICANT should not exceed 10 minutes in duration except for good reason. The APPLICANT may be requested to answer questions raised by the BOARD or the public.

The BOARD will retain any evidence which has been introduced at the hearing for reference in its deliberations on the case.

In no case will the BOARD allow new evidence to be admitted after the close of the public hearing unless this evidence was specifically requested by the BOARD prior to the close of the public hearing.

#### **5.3 Withdrawal of APPLICATION**

Any APPLICATION for a PERMIT submitted hereunder may be withdrawn without prejudice by notice in writing to the BOARD prior to the notice of a public hearing being posted or mailed pursuant to Sect. 5.1 above. Withdrawal of any APPLICATION thereafter requires BOARD approval. No refund of fees will be provided if an APPLICATION is withdrawn.



## **5.4 Time Period for Deliberation**

The BOARD will act on each APPLICATION for a PERMIT within ninety (90) days after the close of the public hearing, unless such APPLICATION has been withdrawn from consideration as set forth in Section 6.3 above.

**5.4.1 Continuation & Extension** - The period within which final action shall be taken may be extended for a defined period by written agreement between the BOARD and the APPLICANT. In the event that the BOARD determines that the APPLICATION is inadequate for the BOARD to make a finding, the BOARD may, at its discretion, continue the hearing to a later date to permit the APPLICANT to submit a revised APPLICATION.

## **5.5 DECISION**

The concurring vote of four (4) of the five (5) members of the BOARD shall be necessary to decide in favor of granting a PERMIT.

Only those members of the BOARD who were in attendance at the public hearing may vote on the APPLICATION in question.

The BOARD will file its DECISION with the Town Clerk and send a copy to the APPLICANT by certified mail. The BOARD shall also send a notice of its DECISION to the property owner, to other TOWN boards and departments, to PARTIES IN INTEREST, and to those who have requested such notice at the public hearing.

## **5.6 Recording of DECISION**

The recording of a DECISION is required by THE ZONING ACT and the BYLAW. The APPLICANT shall be responsible for recording a full copy of the DECISION in the Middlesex South District Registry of Deeds in Cambridge or the Land Court and for paying any required recording fees. A copy of the recorded DECISION, certified by the Registry of Deeds, must be submitted to the BOARD and the Building Commissioner prior to issuance of a Building Permit or the start of any work.

## **5.7 Submission of Approved Plans, Endorsement**

The approved plan as amended by the BOARD in its DECISION of approval shall be submitted for endorsement to the office of the BOARD, following the instructions for Endorsement and Recording of an Approved Plan in the Stow Subdivision Rules and Regulations whether the PCD is a Subdivision or not. Prior to the issuance of a Building Permit, two copies of the approved and endorsed plans shall be submitted to the Building Commissioner.

## **5.8 Appeal of DECISION**

Any person aggrieved by a DECISION of the BOARD, whether or not previously a party to the proceeding, may appeal such DECISION in accordance with M.G.L., Chapter 40A, Section 17 within 20 days after the filing of the DECISION with the Office of the Town Clerk.

## **5.9 Time Limit for PERMIT**

Any PERMIT granted by the BOARD shall lapse within two years from the date of filing of the BOARD's DECISION with the Office of the Town Clerk unless substantial USE or construction under the PERMIT has begun, except for good cause, or if the BOARD has specified a shorter time period in the DECISION. A reasonable extension of said time may be granted by the BOARD where good cause is shown. Any request to the BOARD for such an extension of time must be submitted to the BOARD and a copy thereof to the Office of the Town Clerk at least 30 days prior to the date when the PERMIT is due to lapse. Failure to submit such a request as prescribed above shall be due cause for the BOARD to deny the requested time extension.

### **5.10 Limitation of the DECISION**

The granting of a PERMIT constitutes approval only under the pertinent sections of the BYLAW. Other permits or approvals required by other governmental boards, agencies, or bodies having jurisdiction such as the Board of Health, Stow Water District, and Conservation Commission shall not be assumed or implied. The BOARD may condition any PERMIT hereunder on satisfactory demonstration of compliance with the requirements of other governmental bodies having jurisdiction prior to the start of any work on the site, the issuance of a Building Permit, or any other appropriate step in the development process. The APPLICANT is hereby encouraged to seek approvals and certificates of compliance from such other governmental bodies prior to or concurrently with the APPLICATION to the BOARD.

### **5.11 Repetitive Petition**

Pursuant to M.G.L., Chapter 40A, Sect. 16, no APPLICATION which has been unfavorably and finally acted upon by the BOARD shall be acted favorably upon within two years after the date of final unfavorable action unless four members of the BOARD vote to find that specific and material changes in the conditions upon which the previous unfavorable action was based have occurred and describe such changes in the records of the BOARD'S proceedings, and all but one member of the BOARD consents to the consideration of the matter. Notice to PARTIES IN INTEREST shall be given by the APPLICANT of the time and place of the proceedings at which the question of consent will be considered.

### **5.12 Amending an Planned Conservation Development (PCD) Special PERMIT**

A previously granted PERMIT may be amended by written request to the BOARD or on the BOARD'S own motion. The BOARD shall determine whether any request for further alterations to a site constitutes a minor amendment or if such request should be considered a new APPLICATION requiring a public hearing. The BOARD may amend a PERMIT without a new public hearing provided it finds that the amendment is not significant to the public interest and is consistent with the purpose and intent of the BYLAW. Consultation with the Planning Department is recommended prior to the filing of any request to amend a PERMIT. The fee for minor amendments shall be \$250.

## STOW PLANNING BOARD

### APPLICATION for PLANNED CONSERVATION DEVELOPMENT SPECIAL PERMIT

Refer to the "Rules and Regulations for Planned Conservation Development (PCD) Special Permits: available from the Office of the Planning Board for details on the information and fees required for this application. Incomplete Applications may be denied.

(Please type or print information in blanks below.)

1. Name of Proposed Development \_\_\_\_\_
2. Name of Applicant(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
3. Name of Property Owner(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
4. Name of Engineer \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
5. Name of Land Surveyor \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
6. Deed of property recorded in Middlesex South Registry of Deeds, Book No. \_\_\_\_\_ Page No. \_\_\_\_\_ ;  
and/or registered in Middlesex Registry of Land Court, Certificate of Title No. \_\_\_\_\_.
7. Zoning District(s) \_\_\_\_\_  
Property Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_  
Location and Description of Property \_\_\_\_\_  
\_\_\_\_\_  
Approximate acreage in development \_\_\_\_\_, Number of Lots \_\_\_\_\_

The undersigned hereby apply to the Planning Board for a public hearing and Planned Conservation Development (PCD) Special Permit under Section 8.5 of the Zoning Bylaw.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that the application complies with all applicable provisions of statutes, regulations, and bylaws to the best of his/her knowledge.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

\_\_\_\_\_  
Applicant(s) Signature,                      Date

\_\_\_\_\_  
Applicant(s) Signature,                      Date

\_\_\_\_\_  
Owner(s) Signature,                      Date

\_\_\_\_\_  
Owner(s) Signature,                      Date

All owners (in the case of a corporation, an authorized officer; in the case of a trust, all trustees) must sign.

**DEVELOPMENT IMPACT STATEMENT**Please type or print information in blanks below.

1. Name of Proposed Subdivision \_\_\_\_\_
2. Location \_\_\_\_\_
3. Name of Applicant(s) \_\_\_\_\_
4. Brief Description of the Proposed Project \_\_\_\_\_
5. Name of Individual Preparing this DIS \_\_\_\_\_  
 Address \_\_\_\_\_ Business Phone \_\_\_\_\_  
 \_\_\_\_\_
6. Professional Credentials \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**A. Site Description**

7. Present permitted and actual land uses by percentage of the site.  
 \_\_\_\_% Industrial \_\_\_\_% Commercial \_\_\_\_% Residential \_\_\_\_% Forest \_\_\_\_% Agricultural  
 \_\_\_\_% Other (specify) \_\_\_\_\_
8. Total acreage on the site: \_\_\_\_\_ acres.

	Approximate Acreage	Present	After Completion
1	Meadow or Brushland (non agriculture)		
2	Forested		
3	Agricultural (includes orchards, cropland, pasture)		
4	Wetland		
5	Water Surface Area		
6	Flood Plain		
7	Unvegetated (rock, earth, or fill)		
8	Roads, buildings and other impervious surfaces		
9	Other (indicate type)		

9. Predominant soil type(s) on the site: \_\_\_\_\_

Soil drainage (Use the U.S. Soil Conservation Service's definition)

Well drained: \_\_\_\_% of site, Moderately well drained \_\_\_\_% of site , Poorly drained \_\_\_\_% of site

10. Are there bedrock outcroppings on the site? \_\_\_\_yes \_\_\_\_no

11. Approximate percentage of proposed site with slopes between:

0-10% \_\_\_\_ 10-15% \_\_\_\_ greater than 15% \_\_\_\_

12. Does the project site contain any species of plant or animal life that is identified as rare or endangered? \_\_\_\_yes \_\_\_\_no

If yes, specify: \_\_\_\_\_

13. Are there any unusual or unique features on the site such as trees larger than 30 inches D.B.H., bogs, kettle ponds, eskers, drumlins, quarries, distinctive rock formation or granite bridges?

\_\_\_\_yes \_\_\_\_no

If yes, specify: \_\_\_\_\_

14. Are there any established foot paths running through the site or railroad right of ways?

\_\_\_\_yes \_\_\_\_no

If yes, specify: \_\_\_\_\_

15. Is the site adjacent to conservation land or a recreation area? \_\_\_\_yes \_\_\_\_no

If yes, specify: \_\_\_\_\_

16. Does the site include scenic views or will the proposed development cause any scenic vistas to be obstructed from view? \_\_\_\_yes \_\_\_\_no

If yes, specify: \_\_\_\_\_

17. Are there wetlands, lakes, ponds, streams, or rivers within or contiguous to the site?

\_\_\_\_yes \_\_\_\_no

If yes, specify: \_\_\_\_\_

18. Is there any farmland or forest land on the site protected under Chapter 61A or 61B of the Massachusetts General Laws? \_\_\_\_yes \_\_\_\_no

If yes, specify: \_\_\_\_\_

- 
19. Has the site ever been used for the disposal of hazardous waste? Has a 21E Study been conducted for the site?      \_\_\_\_yes      \_\_\_\_no

If yes, specify results: \_\_\_\_\_

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20. Will the proposed activity require use and/or storage of hazardous materials, or generation of hazardous waste? \_\_\_\_yes \_\_\_\_no

If yes, specify results: \_\_\_\_\_

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### **B. Circulation System**

21. What is the average weekday traffic and peak hour traffic volumes generated by the proposed subdivision?

a. Average weekday: \_\_\_\_\_

b. Average peak hour: \_\_\_\_\_ morning \_\_\_\_\_ evening

22. Existing street(s) providing access to proposed subdivision:

Name \_\_\_\_\_ Classification \_\_\_\_\_

23. Existing intersection(s): list intersections located within 1000 feet of any access to the proposed development:

Name of ways \_\_\_\_\_

24. Location of existing sidewalks within 1000 feet of the proposed site? \_\_\_\_\_
- 

25. Location of proposed new sidewalks and their connection to existing sidewalks:

\_\_\_\_\_  
\_\_\_\_\_

### **C. Utilities and Municipal Services**

26. If dwelling units are to be constructed, what is the total number of bedrooms proposed?

\_\_\_\_\_

27. If the proposed use of the site is nonresidential, what will the site be specifically used for and how many feet of Gross floor area will be constructed? \_\_\_\_\_

28. Storm Drainage

- a. Describe nature, location and surface water body receiving current surface water of the site:

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- b. Describe the proposed storm drainage system and how it will be altered by the proposed development:\_\_\_\_\_

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29. In the event of fire, estimate the response time of the fire department (consult with Fire Dept.)

30. Schools (if residential)

- a. Projected number of new school age children \_\_\_\_\_

#### **D. Measures to Mitigate Impacts**

Attach brief descriptions of the measures that will be taken to:

- 31. Prevent surface water contamination.
- 32. Prevent groundwater contamination.
- 33. Maximize groundwater recharge.
- 34. Prevent erosion and sedimentation.
- 35. Maintain slope stability.
- 36. Design the project to conserve energy.
- 37. Preserve wildlife habitat.
- 38. Preserve wetlands.
- 39. Ensure compatibility with the surrounding land uses.
- 40. Control peak runoff from the site so that the post-development rate of runoff will be no greater than the predevelopment.
- 41. Preserve historically significant structure and features on the site.
- 42. To mitigate the impact of the traffic generated by the development.

## **STOW PLANNING BOARD**

### **NOTICE OF PUBLIC HEARING**

The Stow Planning Board will hold a public hearing on \_\_\_\_\_ at \_\_\_\_\_ in the Stow Town Building, 380 Great Road, Stow, MA to discuss a proposed Definitive Subdivision/Planned Conservation Development plan entitled \_\_\_\_\_, as filed by \_\_\_\_\_. This subdivision consists of \_\_\_\_\_ acres to be divided into \_\_\_\_\_ lots. The land is located in Stow, MA off of \_\_\_\_\_ as shown on Property Map Sheet(s) \_\_\_\_\_ as Parcel(s) \_\_\_\_\_. Plans may be viewed at the Office of the Planning Board or the Office of the Town Clerk during normal business hours.

Stow Planning Board

Please note the following information:

Such permits may be granted by the Planning Board under Massachusetts General Law, Chapter 40A and the Stow Zoning Bylaw in accordance with the "Rules and Regulations for Planned Conservation Development (PCD) Special Permits" all of which are available for review or purchase at the offices of the Planning Board, and the Town Clerk. A copy of the application is also available for review at these offices in Town Hall between 8:00 A.M. and 5:00 P.M., Monday through Friday.

The applicant or his/her representative will be at the hearing to present the reason(s) why the permit should be granted.

When the applicant or his/her representative has concluded their presentation, the Chairman of the Board will allow the Board members to speak to the matter under consideration or to raise questions and concerns. Subsequently, the Chairman will give the public the same opportunity to speak to the matter under consideration or to raise questions and concerns.

The Chairman will not allow any member of the public to interrupt anyone else while they are speaking. Each person wishing to speak at the hearing should be as brief as possible and should wait his/her turn. Each person speaking should avoid repeating the comments of those who preceded them. Each person speaking should state their name and address before they make their statement or ask questions.

Any party may appear in person, by agent, or by attorney at any hearing.

When all of the facts have been presented and all persons wishing to speak on the petition have been heard, the Chairman will close the hearing. In no case will the Board allow new evidence to be admitted after the close of the public hearing unless this evidence was requested by the Board prior to the close of the public hearing.



## **History of Amendments**

December 14, 1998

**Section 3.9.2**        Require one (1) percolation test per lot witnessed by the Board of Health on a conceptual plan demonstrating the approximate layout of the LOTS.